IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1035 OF 2007

Pandurang Dhondi Jadhav & Ors. .... Petitioners
Vs.
Vimal Shivaji Sule & Ors. .... Respondents

Mr. Mandar Limaye for the Petitioners.
None for Respondents.

CORAM : D.B. BHOSALE, J.
DATE : 4TH JULY, 2007

P.C.

. Heard learned counsel for the petitioners.

2. This Petition is directed against the orders passed by the courts below on the application at Exhibit-5. The trial Court had initially allowed the application vide order dated 29.03.2005. That order was carried in Misc. Civil Appeal and the Appellate court vide its judgment and order dated 23.11.2006 allowed the appeal and set aside the order passed by the trial Court.

3. The appellants and defendant nos.1 and 2 both claim that they purchased land from one Vithabai. The suit property was allotted to the share of Vithabai as per decree dated 17.8.1983 passed in Regular Civil Suit No.5 of 1976. Both

claim to be in possession of the portion of land purchased from Vithabai. The Appellate Court after having considered the overall facts and circumstances of the case and the material placed before it has recorded a categoric finding that the plaintiffs have not proved their separate possession to the extent of 10 annas in the property of Vithabai. Defendant Nos.1 and 2 have shown that they are co-owners alongwith the plaintiffs and the plaintiffs cannot claim injunction against the co-owners. Keeping the findings of fact recorded by the courts below in view and considering extremely limited jurisdiction of this court under Article 227 of the Constitution to disturb the findings of fact this writ petition deserves to be dismissed. Order accordingly. The trial Court shall proceed with hearing of the case and disposed it of as expeditiously as possible and preferably within a period of one year from the date of receipt of this order on merits in accordance with law and without being influenced by the observations made in the impugned orders. The petition is disposed of.

(D.B. BHOSALE, J.)